

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

NICOLE R.M.,

Case No. 22-CV-0753 (PJS/DJF)

Plaintiff,

v.

ORDER

KILOLO KIJAKAZI, Acting
Commissioner of Social Security,

Defendant.

Clifford M. Farrell, MANRING & FARRELL, for plaintiff.

Chrisopher Carillo, OFFICE OF THE GENERAL COUNSEL, SOCIAL SECURITY
ADMINISTRATION, for defendant.

Plaintiff brought this action for review of the denial of her application for benefits under Title XVI of the Social Security Act. This matter is before the Court on plaintiff's objection to the July 11, 2023, Report and Recommendation ("R&R") of Magistrate Judge Dulce J. Foster. Judge Foster recommends granting defendant's motion for summary judgment and denying plaintiff's motion for summary judgment.

The Court has conducted a de novo review. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Based on that review, the Court overrules plaintiff's objection and adopts the R&R. The Court agrees with Judge Foster that there is substantial evidence in the record as a whole to support the administrative law judge's ("ALJ's") formulation of

plaintiff's residual functional capacity ("RFC"), and the Court also agrees that the ALJ's failure to specifically explain why he did not include pushing or pulling limitations in plaintiff's RFC does not require remand. *See* Admin. R. [ECF No. 13] 55–63 (plaintiff testifying about her physical limitations without mentioning any problems pushing or pulling); *id.* 49, 62 (plaintiff can drive and vacuum half her house before needing a break); *id.* 68–69, 2368 (in February 2020, treating physician reviewed left-shoulder MRI and opined that plaintiff could return to work without restrictions); *Craig v. Apfel*, 212 F.3d 433, 436 (8th Cir. 2000) (noting that, in the plaintiff's testimony before the ALJ, she "made no mention of any difficulties reaching, pushing, or pulling"); *id.* ("an ALJ is not required to discuss all the evidence submitted, and an ALJ's failure to cite specific evidence does not indicate that it was not considered").

ORDER

Based on all of the files, records, and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Plaintiff's objection [ECF No. 25] is OVERRULED.
2. The Report and Recommendation [ECF No. 24] is ADOPTED.
3. Plaintiff's motion for summary judgment [ECF No. 15] is DENIED.
4. Defendant's motion for summary judgment [ECF No. 19] is GRANTED.
5. This action is DISMISSED WITH PREJUDICE AND ON THE MERITS.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 30, 2023

s/Patrick J. Schiltz

Patrick J. Schiltz, Chief Judge
United States District Court